

**REPORT - PLANNING COMMISSION MEETING
October 10, 2002**

Project Name and Number: PLN2002-00232 (Wong Dwelling)

Applicant: Harvey Wong

Proposal: To consider a Zoning Administrator referral of a Zoning Administrator Permit to allow the use of an additional detached single-family dwelling on an existing single-family lot.

Recommended Action: Approve based on Findings, subject to Conditions of Approval

Location: 36232 Pecan Court in the Niles Planning Area

Assessor Parcel Number(s): 507-0028-061-00

Area: 16,010 square feet

Owner: Harvey Wong

Agent of Applicant: William A. Lane, Architect, William A. Lane & Associates

Consultant(s): Chuck Ludwig, Fremont Engineers; Tom Dack, Dack Development & Engineering; and Sanat Roy, Roy Associates

Environmental Review: This project is categorically exempt from CEQA under Section 15303 as it relates to the construction or conversion of structures for up to three single-family residences.

Existing General Plan: Low Density Residential (4-6 DU/AC)

Existing Zoning: R-1-8, Single-Family Residence District; PUD-2, Planned Unit Development

Existing Land Use: Single-Family Dwelling

Public Hearing Notice: Public hearing notification is applicable. A total of 58 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Pecan Court, Carnation Way, Middlefield Avenue, Bendel Terrace, Cashew Way, and among others. The notices to owners and occupants were mailed on September 30, 2002. A Public Hearing Notice was delivered to The Argus on September 25, 2002, to be published by September 30, 2002.

Executive Summary: The Planning Commission is being ask to consider a Zoning Administrator referral of a Zoning Administrator Permit (ZAP) that would allow the applicant to use an interior lot located at 36232 Pecan Court as a "dwelling group", specifically as two detached single-family dwellings on one lot in an R-1-8 residential district. The proposed project complies with all zoning standards applicable for a dwelling group in the R-1-8 district. Staff recommends approval of the proposed project based on compliance with zoning requirements and proposed "Conditions of Approval".

Background and Previous Actions: On November 26, 1957, the City Council adopted Ordinance 87, which provided standards for "Dwelling Groups" in residential neighborhoods (Section 8-22138 of the Fremont Municipal Code (FMC)). The Section was amended on four different occasions thereafter to include additional regulations for the development of dwelling groups and to reduce the minimum area requirement for a dwelling group from "at least 20 percent greater than" to "equal to the aggregate" of the minimum lot areas otherwise required for the individual dwellings in the group based on its zoning district. The purpose of allowing dwelling groups in R-1 single-family residential districts are to provide flexibility for the development of additional dwelling units on those lots that

can meet development standards, such as minimum area and setbacks requirements, but generally cannot satisfy the requirements for a subdivision. For example, a lot may satisfy the minimum area required for a subdivision in its zoning district, but due to a deficient street frontage required to create two lots, the lot may not be subdivided.

On March 6, 1961, the Planning Commission approved a Planned Unit Development [PUD-2] for the construction of 58 single-family dwellings for the "Hacienda Gardens" Tract 2024 approved on April 28, 1960. The Planning Commission found that a PUD was necessary for the development of these residential lots, including the lot in question, in keeping with the pattern of individual homes and plots already in existence. The PUD permitted encroachments into the otherwise required 25-foot rear yard setback for the development of these residences, provided that their minimum rear yard open space area requirements were satisfied. A general recreation (tennis courts)/swimming area was also approved under this PUD.

On September 18, 2001, the applicant and owner, Harvey Wong, was issued a warning by the Community Preservation Division to abate the unlawful habitable use of a detached two-story accessory structure located at 36232 Pecan Court (hereinafter, "Lot") as a dwelling unit. The applicant was given three options: (a) legalize the structure as an additional dwelling on the lot; (b) legalize the structure as a secondary dwelling unit (granny unit) on the lot by reducing the structure's size to no greater than 600 square feet; or (c) legalize the structure as a guest house. All three options would require the approval of building permits for any proposed construction or completed construction done without building permits. Options (a) and (b) also require the approval of a Zoning Administrator Permit.

In March of 2002, the Zoning Administrator received a request from the applicant for a Zoning Administrator Permit and Variance to Section 8-22139(a) [Dwelling Group] to legalize habitation of that detached structure to allow an additional single-family dwelling on the lot (as indicated under option (a) above). Specifically, the Zoning Administrator Permit was requested to allow the use of two single-family dwelling units on the lot by converting an existing two-story detached garage/accessory structure into an additional single-family dwelling. A variance was also requested because the lot (15,840 square feet) was insufficient to satisfy the minimum area requirement of 16,000 square feet to accommodate both dwellings.

On July 3, 2002, property owners within 300 feet of the lot in question were notified of the applicant's proposal. The Zoning Administrator determined that, due to the nature of the request and public correspondence received, the project warranted referral to the Planning Commission. At the request of the applicant, the project was delayed for a hearing because a lot line adjustment was being pursued by the applicant at the same time to acquire additional lot area to satisfy the minimum area requirement for the proposed project.

On July 23, 2002, the City's Parcel Map/Lot Line Adjustment Administrator approved a lot line adjustment (LLA 02-06) where the applicant acquired 170 square feet from an adjoining lot to satisfy the minimum lot area requirement for two dwellings on this lot, thereby avoiding the need for a variance.

Project Description: The applicant requests the approval of a Zoning Administrator Permit to allow the use of an additional single-family dwelling on the lot located at 36232 Pecan Court of approximately 16,010 square feet in lot area. In summary, the applicant states, "the legalization of the accessory structure as an additional single-family dwelling is the most viable approach and use on this lot".

The existing two-story detached garage/accessory structure (Structure "A" on Exhibit "A") in question on the lot is approximately 1,647 square feet in size. The first floor is approximately 1,187 square feet, and the second floor is approximately 460 square feet. First story additions (existing) to the side and rear of the structure were constructed without the benefit of building permits by the previous property owner. The second story addition to the structure was, however, constructed with building permits. The two-story existing structure currently consists of a two-car garage, a kitchen and dining room, a living room and two bathrooms and 2 bedrooms. It is located approximately 9 feet and 1 inch from the westerly interior lot line; 60 feet from the easterly interior lot line, or 25 feet from the existing legal dwelling (Structure "B") on the lot; 26 feet and 6 inches from the front property line; and 21 feet from the rear property line. The structure is approximately 20 feet 6 inches in height.

The applicant proposes to acquire all necessary permits to legalize the structure as an additional dwelling on the lot by obtaining the approval of a Zoning Administrator Permit and improving the structure to satisfy all federal, state

and local building code requirements for habitable use. The applicant indicates that portions of the structure will be demolished and rebuilt to satisfy building code standards. Additionally, the applicant proposes to add 377 square feet in net area (both floors in aggregate) to the structure for a new master bedroom on the second floor and bathroom on the lower floor, giving it an overall square footage of 2,024 square feet. The colors and appearance of the exterior walls will match the existing legal dwelling on the lot, particularly the lap siding and the colors of the eave and fascia trim. The existing roof shingles will be replaced with new composition shingles to match the existing legal dwelling on the lot.

Parking will be provided by the 2 covered spaces existing within the structure (previously provided for the existing legal dwelling's use), while a new carport (20' by 20') is proposed in the rear/side yard area for the existing legal dwelling. A total of 4 covered parking spaces will, therefore, be provided on the lot. The design, color and appearance of the carport is proposed to be consistent with both structures on the lot. Area between both structures, excluding the 2 uncovered parking spaces on the existing driveway in front of the structure in question, will provide an additional 3 uncovered parking spaces.

Overall, with the proposed 377 square feet net addition to the structure in question and inclusion of the new 400 square foot carport, the site will afford 12,677 square feet in open space (9,874 square feet greenscape). A new driveway, approximately 12 feet wide extending off of the existing driveway, will provide access to the new carport on the lot. A vehicular gate with masonry columns is proposed to match the existing appearance of the structure's stone/brick veneer architectural appendages.

Project Analysis: As noted above, the proposed additional dwelling, in conformance with Section 8-2603.1 [Zoning Administrator Uses in R-1 Districts] and Section 8-22139 [Dwelling groups] of the FMC, as well as PUD-2, requires the approval of a Zoning Administrator Permit. No amendment to PUD-2 is necessary because Condition 3 of PUD-2 explicitly states "All other conditions of the Zoning Ordinance not specifically varied by this approval shall apply to this application..." Therefore, since this section of the Zoning Ordinance was not amended by PUD-2, then a Zoning Administrator Permit is the only land use entitlement required for this project.

The proposed legalization of the structure and its minor modifications meet the requirements of the ordinance in that the structure is located in conjunction with an existing single-family dwelling unit in an area allowed for the principal dwelling, on a "larger sized" interior lot, with at least 25 feet setback distance in between both structures and a 9 foot setback from the westerly interior lot line. All other setback and yard requirement are satisfied for two dwellings on this lot.

The proposed improvements to the additional unit's exterior walls, generally consistent with its current appearance, will match that of the design of the other dwelling on the lot as well as residences in immediate vicinity. The structure is partially screened from the front yard because of the structure's angle and its placement, as one faces the lot from the cul-de-sac. Additionally, with the incorporation of a new front yard gate and wall, much of the structure will not be visible from the street.

The proposed parking satisfies the minimum requirement for two dwellings on the lot by providing 4 covered parking spaces. In addition, the applicant proposes 5 additional uncovered parking spaces on the lot. Staff suggests that a remote operated, automatic electronic vehicular gates be required for the project to provide convenient access to the carport located in the rear/side yard of the residence (Condition 8). The proposed masonry columns with decorative light fixtures, matching the existing stone/brick veneer should be installed as it is appropriate with the current design of the architectural appendages extending from the structure. Landscaping should be included to soften the appearance of the property's frontage and the new extended driveway leading to the new carport in between both structures should be textured and scored (Condition 9 & 10).

Based on the above analysis and suggestions, staff finds that the appearance of the proposed additional dwelling will be consistent with the appearance of the other existing dwelling on the lot. Overall, the appearance of property will remain similar, but legalized, to provide an additional use of a single-family dwelling on the lot.

General Plan Conformance: The existing General Plan land use designation for the project site is Low Density Residential, 4-7 dwelling units per acre. The proposed project is consistent with the existing General Plan land use

designation for the project site because the lot's area can sufficiently accommodate two single-family dwellings. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Land Use (LU) Goal 1: *New housing development while conserving the character of the City's existing single-family residential neighborhoods.*

Housing Goal 2: *The City shall continue to apply building codes and design standards to ensure that development is of high quality and consistent with the scale and character of the community.*

Zoning Conformance: The following table represents the applicant's proposal as compared with required standards for an additional dwelling located on a lot zoned R-1-8:

36232 Pecan Court Dwelling Group in R-1-8 Residence District		
	Existing/Proposed	General Standard
Site Area	16,010 Square Feet	Minimum 16,000 SF for 2 Dwellings
Site Width	87 Feet (at building face)	70 Feet
Site Depth	114 Feet (average est.)	100 Feet
Setbacks for 2 Dwellings in R-1-8 Residence District		
Front Yard	26 Feet and 6 Inches	25 Feet
Distance Between Structures	25 Feet	Not less than the sum of the least widths of the side yards required for the district; 16 Feet
Side Yard	9 Feet and 1 inch	8 Feet
Rear Yard	One-story portion: 21 feet and does not exceed 30 percent coverage of required rear yard (11,427 SF open); Two-story portion 33 feet and 10 inches	One-story portion may encroach into otherwise required rear yards to within 10 feet provided that no more than 30 percent of the required rear yard is covered; and two story portion 30 feet

The site is zoned R-1-8, Single Family Residential, 8,000 square feet of lot area per unit. As indicated above, the proposed project conforms to the development standards required of a Dwelling Group in an R-1-8 zoning district.

- **Parking:** The FMC requires that a single-family dwelling must be provided with two covered off-street parking spaces. Given that the proposed project consists on an additional single-family dwelling on the lot, the lot will be required to provide a total of four covered parking spaces on the lot. The proposed project will meet that requirement and, in addition, provide five extra, uncovered off-street parking spaces on the lot.
- **Open Space/Landscaping:** Approximately 12,677 square feet of open space is provided (11,427 square feet is private open space); 9,874 square feet of greenscape and 2,803 of hardscape surface.
- **Circulation/Access Analysis:** Access is provided by a minor residential street at the end of cul-de-sac with a pavement width of 36 feet.

Grading & Drainage: Only minor grading is necessary and will be permitted to provide proper and adequate drainage for the lot. Site grading will not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The project site is relatively flat where only minor grading for a new foundation on some portions of the structure will be required.

Urban Runoff Clean Water Program: The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are included in Exhibit "B" to reflect this requirement.

Applicable Fees:

- **Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park dedication-in-lieu fee, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Waste Management: This project involves the alteration of a structure and shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. Trash and recycling enclosures will be kept within a dedicated area along the west side yard of the proposed additional dwelling unit.

Environmental Analysis: This project is categorically exempt from CEQA under Section 15303 as it relates to the construction or conversion of structures for up to three single-family residences.

Response from Agencies and Organizations: Staff received five letters (attached as Informational) and three phone responses from adjacent neighbors who opposed a Zoning Administrator Permit and prior (now withdrawn) Variance for the project. Primarily, the adjacent neighbors found that the proposed project did not fit within the character of the neighborhood and will add to traffic and noise problems in the area. Adjacent neighbors particular noted that the project would add to the parking congestion, which is mainly caused by the "Hacienda Gardens" swim club, two parcels to the south. The swim club does provide a parking lot accessible from Rock Avenue. However, the swim club is also accessible from Pecan Court where members could park on the street, contributing to the parking situation.

Enclosures: Exhibit "A" (Site Plan, Floor Plan and Elevation Plan)
Informational 1 (5 Letters from adjacent neighbors)

Exhibits: Exhibit "A" (Site Plan, Floor Plan and Elevation Plan)
Exhibit "B" (Findings and Conditions of Approval)

Recommended Actions:

1. Hold public hearing.
2. Find the project PLN20032-00232 is categorically exempt from CEQA under Section 15303 as it relates to the construction or conversion of structures for up to three single-family residences.
3. Find PLN20032-00232 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
4. Approve PLN20032-00232, as shown on Exhibit "A", subject to Finding and Conditions of Approval in Exhibit "B".

Exhibit "B"
Findings and Conditions of Approval
PLN2002-00232
Dwelling Group for 36232 Pecan Court

Findings for Approval:

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated October 10, 2002, incorporated herein:

- a) The site is suitable and adequate for the proposed project in that it meets the minimum aggregate area for two dwellings [16,010 SF] that would otherwise be required for the individual dwellings in the group in the R-1-8 zoning district.
- b) The proposed project would not have a substantial adverse effect on traffic circulation, the planned capacity of the street system or other public facilities or services because points of ingress-egress are properly located, sufficient parking is provided, and adequate fire fighting equipment access and facilities are available. Based on the ITE Trip Generation Rate Manual, 6th Edition, a single-family home will generate only 10 trips per weekday. The additional dwelling would have no significant impact on a minor residential street because it amounts to only one additional trip during the AM Peak time from 7 a.m. to 9 a.m. and one additional trip during the PM peak time from 4 p.m. to 6 p.m.
- c) The proposed project would not have a substantial adverse economic effect on nearby uses because the design and appearance of the additional dwelling unit on the lot is in keeping with its original characteristic and design.
- d) The proposed project would not have a substantial adverse impact on the general welfare of persons residing in the community because the proposed additional dwelling on the lot will be required to adhere to all zoning standards as well as all federal, state and local building and fire codes.
- e) The proposed project is compatible with existing and proposed development within its surroundings because the proposed use is properly situated in conjunction with an existing single-family dwelling unit in an area allowed for the principal dwelling, on a "larger sized" interior lot, with at least 25 feet setback distance in between both structures and a 9 foot setback from the westerly interior lot line in conformance with the established standards for the R-1-8 residential zoning district.
- f) The proposed project is consistent with the General Plan, as provided in Land Use Goal 1 and Housing Goal 2, in that it contributes to providing an additional single-family dwelling unit in the City, while conserving the character of its neighborhood. The proposed project must adhere to all building and fire code requirements and its Conditions of Approval to ensure that its development is of high quality.

Conditions of Approval

- 1. Approval of PLN2002-00232 shall conform to Exhibit "A" (Site Plan and Floor Plan) for property located at 36232 Pecan Court. The Zoning Administrator Permit shall permit the use of an additional single-family dwelling unit as indicated in Exhibit "A" on this lot, totaling two single-family dwellings on this lot. The site plan, floor plan and elevations proposed for building permits shall substantially conform to the plans submitted for this application, stamped and dated October 10, 2002, except as modified herein.
- 2. The applicant shall submit appropriate plans to the **Development Organization** for review to ensure compliance with all City codes and policies. Any changes or modifications required through the Development Organization review process shall be incorporated into the project.
- 3. The development of the structure into an additional single-family dwelling on the lot shall comply with all federal, state and local building and fire codes.

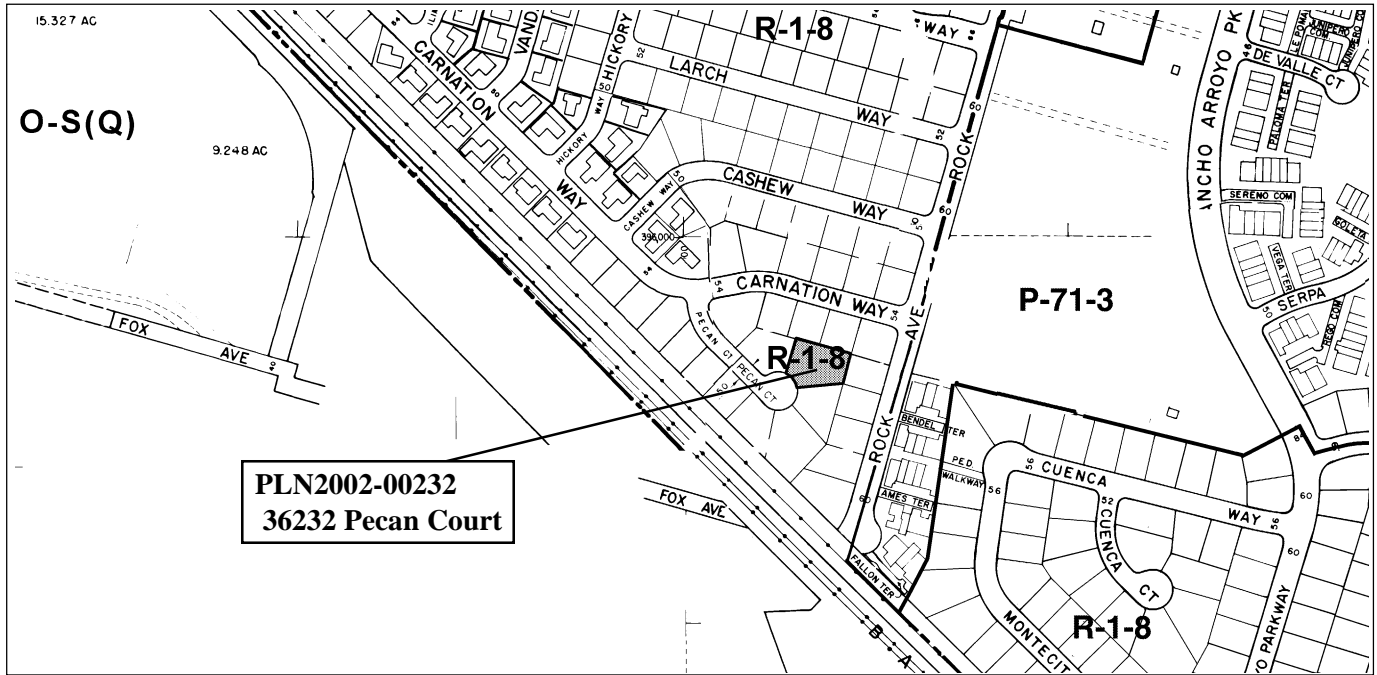
4. The project shall be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities and traffic impact fees as well as the park dedication in-lieu fee. These fees shall be calculated at the rate in effect at the time of building permit issuance.
5. Minor revisions of the site plan, building location, and architectural details may be permitted within the overall context of the approved design concept, subject to the approval of the Zoning Administrator during the Development Organization review process.
6. Construction activities shall be limited to the following hours of operation:

7 a.m. to 7 p.m. Monday through Friday
9 a.m. to 6 p.m. Saturday

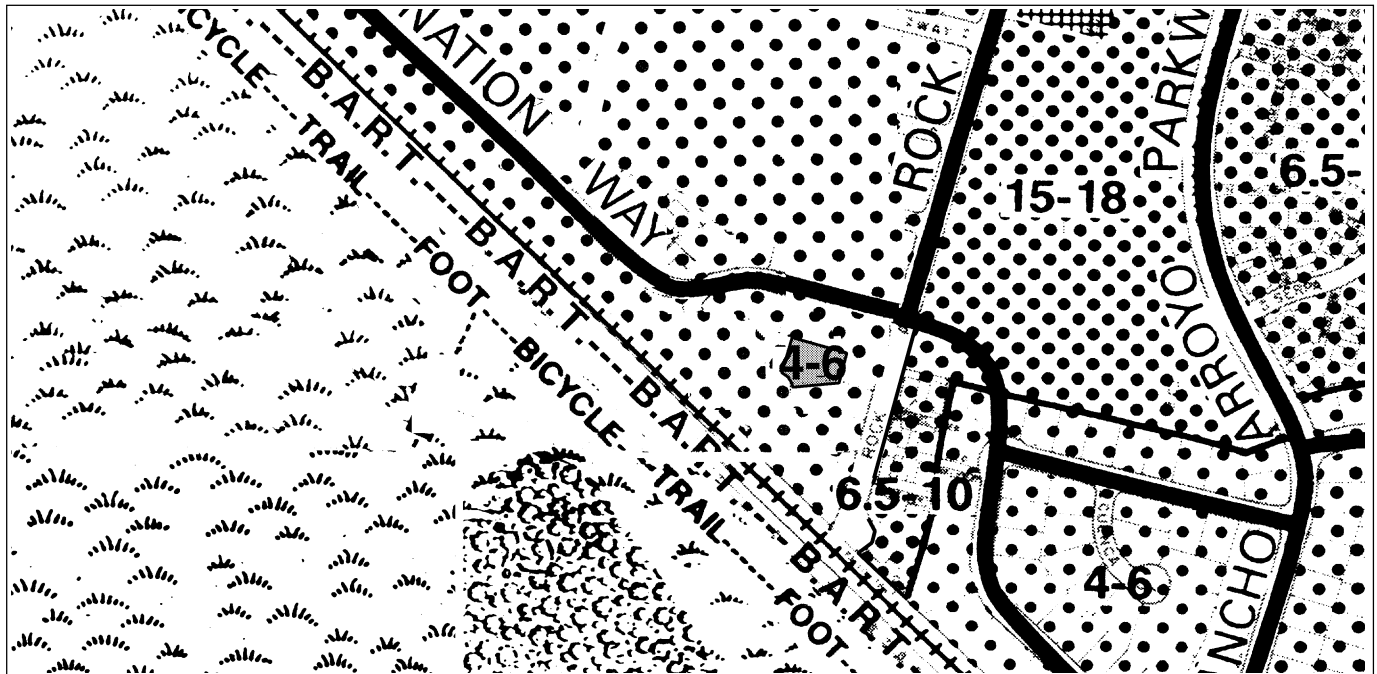
No construction activities permitted on Sunday. Failure to comply with the construction hours of operation will lead to withholding of inspections.
7. Colors and materials shall be submitted during the D.O. review to ensure that the improvements to the structure in question are consistent with that of the existing legal dwelling on the lot.
8. A remote operated, automatic electronic vehicular gate shall be installed between the dwellings to allow convenient access to the carport and additional parking area within the rear/side yard area.
9. A landscaping and irrigation plan for the front yard shall be submitted during the D.O. review to soften the appearance of the property's frontage. Such plans should include trees, especially at the west side of the front yard, to provide for additional screening and relief from the added hardscape proposed in the front yard.
10. The extended driveway leading to the new carport shall be textured and scored. Additionally, hedges should be grown adjacent to extended driveway to soften the paving mass.
11. The applicant shall provide plans of the carport. The design, color, roof pitch and material, and appearance shall match the two dwellings on the lot. The interior dimension of the carport shall not be less than 19 feet deep by 18 feet wide.
12. All mechanical equipment, including air conditioning units, and PG&E meters, shall be screened from view from adjacent public rights-of-ways and other uses, subject to the review and approval of staff during the Development Organization review process.
13. Garbage or trash containers shall be indicated on the plans, suitably concealed behind permanent screening or fencing contiguous to each structure, subject to review and approval of staff during the Development Organization review process.
14. No exterior lighting shall be permitted except that which has a concealed source, subject to the review of staff during the Development Organization review process.
15. The applicant shall provide for a functional drainage system. The drainage system is subject to the review and approval of staff during the Development Organization review process.
16. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water quality measures for operation and maintenance of the project.
17. The applicant shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State of California Water Quality Control Board.

18. The project plan shall include erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system during and after construction, in accordance with the practices outlined in the Association of Bay Area Government's Erosion and Sediment Control Handbook, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board's Erosion and Sediment Control Field Manual. A separate plan shall be submitted for this purpose and shall be subject to review and approval of the City Engineer during the Development Organization process.
19. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
20. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A 13
21. The applicant shall submit a site plan/civil utility plan indicating existing and proposed on-site fire hydrant locations, subject to approval by the City of Fremont Fire Department. The fire hydrant spacing requirement is 500 feet, measured as the fire engine travels on all-weather surfaces.
22. The lighted address of both residence must be visible from the public street.
23. During the necessary construction to the improvements of the structure, the property owner shall be responsible for litter control and sweeping of all paved surfaces. All on-site storm drains shall be cleaned immediately before the start of the rainy season beginning on October 15 each year, subject to the review of the Building/Engineering inspector.
24. Any vehicle or equipment washing/steam cleaning must be done at an appropriately equipped facility which drains to the sanitary sewer. Outdoor washing must be managed in such a way that there is no discharge of soaps, solvents, cleaning agents or other pollutants to the storm drains. Wash water should discharge to the sanitary sewer, subject to review and approval of Union Sanitary District.
25. Prior to release of building for occupancy, the project architect/engineer shall submit a letter to the City certifying that the building has been constructed in conformance with the approved architectural design, subject to the review and approval of the Zoning Administrator.
26. The project engineer-of-record shall submit a letter to the City that the site grading and drainage are in conformance with the approved grading and drainage plans, subject to the review and approval of the Development Organization staff.
27. This Zoning Administrator approval shall be subject to revocation by the Zoning Administrator, Planning Commission or City Council at such time as any of the following conditions are found to exist:
 - a. Conditions of approval have not been fulfilled;
 - b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property; or
 - c. The use has resulted in a substantial adverse impact on public facilities or services.

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number: PLN2002-00232 (Zoning Administrator referral)
Project Name: Wong Dwelling
Project Description: To consider a Zoning Administrator referral of a Zoning Administrator Permit to allow the use of an additional detached single-family dwelling on property located at 36232 Pecan Court in the Niles Planning Area.

Note: Prior arrangements for access are not required for this site.

